

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALFONSO A. SAAVEDRA,

Petitioner,

v.

MATTHEW CATE, CDCR-Director,

Respondent.

No. C-11-3487 TEH (PR)

ORDER OF DISMISSAL AND GRANTING
LEAVE TO PROCEED IN FORMA
PAUPERIS

_____/ Doc. #2

Petitioner, a state prisoner presently incarcerated at California Men's Colony - East, California State Prison in San Luis Obispo, California has filed a second or successive Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254, challenging a 1998 criminal judgment from Santa Clara Superior Court. Doc. #1.

According to the Court's docket, on November 26, 2001, Petitioner filed a Petition challenging the same judgment, and this Court denied relief on August 8, 2005. See Saavedra v. Runnels, No. C-01-4454-TEH (PR), Doc. #39. Petitioner appealed, and that appeal was denied by the Ninth Circuit on December 12, 2006. See Saavedra

1 v. Runnels, 210 Fed. Appx. 747 (9th Cir. 2006).¹


2 A second or successive petition may not be filed in the
3 district court unless the petitioner first obtains from the
4 appropriate federal court of appeals an order authorizing the
5 district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A).
6 Petitioner has not obtained an order from the Ninth Circuit
7 authorizing this Court to consider the instant petition.
8 Accordingly, the Petition is DISMISSED without prejudice to refiling
9 if Petitioner obtains the necessary order.

10 Good cause appearing, Petitioner's in forma pauperis
11 application is GRANTED. Doc. #2.

12 The Clerk shall terminate any pending motions as moot and
13 close the file.

14
15 IT IS SO ORDERED.

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17 DATED 01/25/2012

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19 _____
20 THELTON E. HENDERSON
21 United States District Judge
22

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25 _____
26 ¹United States Court of Appeals, Ninth Circuit, Rule 36-3(ii)
27 prohibits citations of unpublished dispositions and orders issued
28 before January 1, 2007, except when cited for factual purposes, as is
the case here. 9th Cir. R. 36-3(ii).